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IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED 06.01.2017

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THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No. 74 of 2017

and

CMP.No.668 of 2017

Managing Director,
Tamil Nadu State Transport
Corporation Ltd,
Coimbatore Division I
37, Mettupalayam Road,
Coimbatore.

.. Respondent/Appellant

versus

1. Ajara Begham
2. Minor Amira Ahima
3. Minor. Pusra Mariam

.. Petitioners/Respondents

Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Fair and Decreetal order dated 03.01.2011 passed in M.C.O.P.No.1457 of 2008 by the learned Principal Sub Judge, Motor Accident Claims Tribunal, Tirupur.

For appellant : Mr.S.S.Swaminathan

J U D G M E N T

The present appeal is filed by the appellant challenging the order dated 03.01.2011, passed by the Principal Sub Judge, Motor Accidents Claims Tribunal, Tirupur, made in MCOP No.1457 of 2008.

2. It is a case of fatal accident. The deceased, aged 35 years, earning a sum of Rs.5,200/- per month died in the said accident that occurred on 27.01.2008. His wife and children filed the Claim Petition before the Claims Tribunal in M.C.O.P.No.1457 of 2008, on the file of learned Principal Subordinate Judge, Triuppur.

3. The Tribunal, on considering the oral and documentary evidence awarded a sum of Rs. 6,22,000/- as compensation, the break-up details of the same are as under:

Loss of income	-	Rs.5,76,000/-
Loss of consortium to wife	-	Rs. 10,000/-



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Loss of love and affection (Rs.10,000/- to each claimants)	-	Rs.	30,000/-
Funeral Expenses	-	Rs.	5,000/-
Transport Expenses	-	Rs.	1,000/-

Rs.6,22,000/-

3. A perusal of the award reveals that the first claimant who was examined as P.W.1, in her evidence has stated that the deceased was earning a sum of Rs.5,200/- per month, but no documents have been marked to prove the same. Taking the date of the accident and the avocation of the deceased, the Tribunal fixed the income of the deceased at Rs.4,500 /- per month and after deducting one-third towards personal expenses, the contribution of the deceased to the family was arrived at Rs.36,000/= per annum (Rs.3,000/= per month). On the basis of the post-mortem certificate, Ex.P-3, the age of the deceased was fixed at 35 years and adopting the multiplier of 16, a sum of Rs.5,76,000/- was awarded as compensation towards loss of income.

4. It is contended by the learned counsel for the appellant that the Tribunal ought to have adopted the multiplier of 15 instead of 16. Though the said contention carries weight and deserves to be accepted, however, this Court finds that the compensation awarded under the head "loss of consortium" to the wife at Rs.10,000/= and "loss of love and affection" to the other claimants at Rs.10,000/= each is very meagre and deserves to be enhanced. Though this Court agrees with the contention of the learned counsel for the appellant that the multiplier needs to be modified, in the same breath is of the considered opinion that the compensation awarded under the heads 'loss of love and affection' and 'loss of consortium' needs to be enhanced. In such view of the matter, this Court is of the considered opinion that reducing the compensation under the head 'loss of income' by adopting a different multiplier and enhancing the compensation under the heads 'loss of love and affection' and 'loss of consortium' would be nothing but reworking the whole compensation amount to arrive at an almost similar compensation. In such view of the matter, this Court deems it fit to leave the compensation awarded under the above heads intact. The amount awarded under the head funeral expenses and transport expenses, being reasonable, are confirmed.

5. For the reasons stated above, the appeal stands dismissed, confirming the award dated 03.01.2011, passed in MCOP. No.1457 of 2008. No costs. Consequently, connected Miscellaneous Petition is closed.

6. The appellant/Transport Corporation is directed to deposit the award amount, less the amount, if any, already



deposited by it, along with accrued interest, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit being made, the major claimant, on filing necessary application, shall be permitted to withdraw her respective share of compensation.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

arr/GLN

To

1. The Principal Sub Judge
Motor Accident Claims Tribunal
Tirupur.
2. The Section Officer
VR Section
High Court, Madras.

C.M.A. No.74 of 2017

KS (CO)
EU (05/03/2018)